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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/576,499	05/23/2000	Richard E. Williams	2429/4	4593

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EXAMINER

ARNOLD III, TROY G

ART UNIT PAPER NUMBER

3728

DATE MAILED: 01/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N . 09/576,499	Applicant(s) WILLIAMS, RICHARD E.	
	Examiner Troy Arnold	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2002 .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7,10,11,13-17,20-23,25,26,29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7,10,11,13-17,20-23,25,26,29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-7, 10, 11, 13-17 and 20-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 recites the limitation "the radiator" in several places. There is insufficient antecedent basis for this limitation in the claim. The preamble does not positively recite a vehicle radiator. In lines 12-13 of the same claim, the phrase "when so folded said legs folded away from.. ." is awkward and unclear. In claim 11, lines 2-3, the phrase " with a portion of each opposed side of said first pair of sides" is also unclear – "said first pair of sides" has no antecedent basis. The last "whereby" clause in claim 11 is grammatically incorrect and unclear; it does not appear that the member claimed by the Applicant (third paragraph of claim 11) is engaged with both the arms and the legs folded oppositely , as claimed in the last two lines of claim 11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 13, 14, 16, 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan et al. Regarding claim 11, Sullivan teaches a packaging component for an article comprising a base member 10 having a central part defining a plane and a first pair of opposed sides, with a portion of the sides foldable out of the plane of the base member and forming arms, connected to the central part (see Sullivan's upper and lower arm portions), a second pair of opposed sides on the base member, orthogonal to the first pair of sides, a portion of each foldable out of the plane of the base member, in a direction opposite the first pair, and forming legs to the base member, a member 18,45 engageable with the arms when the arms are folded, whereby an article 17 placed in the central part is stabilized, and the member 18 is engaged with the arms (upper and lower arms). Regarding claim 13, Sullivan's component is made of a rectangular, rigid (inasmuch as that of the Applicant's is) planar sheet and is cut to form the arms, the legs being defined at least in part by fold lines. See Figs 3 and 4. Regarding claim 14, see Fig 4 of Sullivan. Regarding claim 16, Sullivan teaches side and end leg portions with lapping portions at each corner which fold over and underlie adjacent portions. See Fig 3. Regarding claim 20, see Fig 4, at items 42. Regarding claim 22, see item 18,45.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-7, 10, 23, 25, 26, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al in view of Wood, Cadillac et al, and Official Notice. Sullivan teaches all the limitations of claims 2 and 23 except the packaging system being used for a vehicular radiator, or including a vehicular radiator, and the at least one stand-off element. As noted before, Sullivan's system could be used to package a vehicular radiator, and appears well suited to do so. Regarding the stand-off element, Wood teaches stand-off elements 17 in a packaging system, and Cadillac also teaches stand-off elements 11,12 in a packaging system. Official Notice is also taken that stand-off elements, spacers, shims, cushion members and the like, are old, obvious and well known in the packaging arts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate stand-off elements into the invention of Sullivan for the purpose of insuring that the item packaged 17 did not move toward one of the walls of the outer container 20, due to flexing of the central portion. Sullivan teaches all the limitations of claims 3 and 29 except the tray member being made of Kraft paper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper, as Kraft paper is the full functional equivalent of the cardboard specified by Sullivan. Sullivan teaches all the limitations claimed in claims 4, 6 and 10 (Regarding claim 10, see Fig 4). Sullivan teaches all the limitations of claims 5, 7 and 26 except a diagonal fold line forming a gusset, pre-cut locking tabs and pre-cut locking receptacles.

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Official Notice is taken that such structures are old, obvious and well known in the packaging arts, and would have been obvious modifications to Sullivan for the purpose of expediting assembly. Sullivan also teaches all the limitations claimed in claims 25 and 30.

Claims 15, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al in view of Official Notice. Sullivan teaches all the limitations of claims 15 and 17 except a diagonal fold line forming a gusset, pre-cut locking tabs and pre-cut locking receptacles. Official Notice is taken that such structures are old, obvious and well known in the packaging arts, and would have been obvious modifications to Sullivan for the purpose of expediting assembly. Sullivan teaches all the limitations of claim 21 except the tray member being made of Kraft paper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper, as Kraft paper is the full functional equivalent of the cardboard specified by Sullivan.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Arnold whose telephone number is 703-305-0621. The examiner can normally be reached on Tuesday-Thursday, 9:30-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-0302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Troy Arnold
Examiner
Art Unit 3728

TGA
January 21, 2003

A handwritten signature in black ink, appearing to read "Mickey Yu", with a stylized, flowing script.

Mickey Yu
Supervisory Patent Examiner
Group 3700